THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

REVIEW WPMP No. 20012 of 2006
in
WRIT PETITION No.21430 of 1998

ORDER:

The ancestor of the writ petitioners was assigned an extent of Acs.4.57 cents of land in Survey No.171 of Gonegandla Village, Kurnool District, in the year 1950. However, the said land was resumed by the Government in the year 1980 for establishing a sub-station. The writ petitioners state that on the representation made by them, they have been assigned about Acs.3.00 of land in a different village. They filed this writ petition complaining that though permission was accorded to cultivate the land, they are not in effective possession of the land and that neither compensation was paid nor alternative land was assigned.

This Court allowed the writ petition on 06.09.2005 following the judgment of this Court in ***LAO-cum-RDO, Chevella Division, Domalaguda, Hyd v Mekala Pandu***[1]***.*** The respondents were directed to pay ex-gratia as directed in the said case.

The respondents in the writ petition filed this review petition. The ground urged by them is that the writ petitioners were already assigned alternative lands and in that view of the matter, the question of paying ex-gratia does not arise.

Heard the learned counsel for the parties.

The relief claimed in the writ petition is as regards payment of ex-gratia. It is no doubt true that the petitioners have stated in para 6 of the affidavit that permission was accorded to them for cultivating the lands in Kulumala Village.

It appears that this Court has not taken the same into account when it allowed the writ petition. The assignee of a land cannot have a dual benefit of ex-gratia on the one hand and assignment of alternative land on the other hand. In case the assignment in favour of

the writ petitioners is absolute or the physical possession of the assigned property was not delivered, suitable directions can be issued.

Hence, the review petition is allowed and the order dated 06.09.2005 passed in W.P.No.21430 of 1998 is recalled. In its place, the following order is passed.

(a) The respondents in the writ petition shall be under obligation to pass orders making a clear and perfect, order of assignment of the land in Survey Nos.243/1B/1 of Kulumula Village for an extent of Ac.0.88 cents, Ac.0.94 cents and Ac.0.93 cents in favour of the writ petitioners.

(b) In case the possession of the property was not effectively delivered to the writ petitioners, it shall be delivered within six weeks from the date of receipt of a copy of this order.

(c) If for any reason, the writ petitioners are not put in effective possession of the said land, the respondents in the writ petition shall be under an obligation to make assignment of alternative lands, failing which, to pay ex-gratia as per law.

There shall be no order as to costs.

L. NARASIMHA REDDY, J

Date: 06.02.2012
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[1] 2004 (2) ALD 451